



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/170824

PRELIMINARY RECITALS

Pursuant to a petition filed November 12, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on February 09, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly modified the Petitioner's request for personal care worker (PCW) services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. She is 60 years old and lives with family.

2. Petitioner's diagnoses include rheumatoid arthritis, chronic pain and gait abnormality. She has swelling in her joints and fingers. She has limited range of motion in her shoulders and difficulty bending at the waist. She ambulates with a cane.
3. On March 12, 2015 a Personal Care Screening Tool (PCST) was completed. The assessor noted the following needs of the Petitioner:
 - Bathing – Level D – Petitioner needs assistance getting in/out of bath due to being unsteady; assistance washing areas she is unable to reach
 - Dressing – Level D - Petitioner needs assistance dressing upper and lower extremities due to constant chronic pain, stiffness in shoulders, limited range of motion, unable to fully bend at waist, 2x/day.
 - Grooming – Level F – Petitioner needs assistance with grooming due to chronic pain, joint swelling, finger swelling, decreased grasp, limited range of motion
 - Eating – Level A – requires assistance with meal prep and set-up
 - Mobility – Level D – gait is slow and unsteady due to chronic pain and joint swelling. Pain is exacerbated with walking and standing; unable to wear shoes due to chronic swelling and pain. History of falls.
 - Toileting – Level D – needs assistance to/from toilet; difficulty bending to sit on toilet; assistance with clothing adjustment; 2x/day
 - Transferring – Level D – chronic pain, slow gait, difficulty changing position.
 - Med Assistance – Level B – needs reminders, 1x/day
4. On June 2, 2015, the Petitioner's provider submitted a PA request for 3.5 hours/day (24.5 hours/week) of PCW services.
5. On October 30, 2015, the agency approved 3.14 hours/day (22 hours/week) of PCW services.
6. On November 12, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities for a person living alone, and one-fourth of their time for a person living with other family members. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

In this case, the Petitioner had previously received PCW services of 3.5 hours/day. The agency noted that it had previously allocated time for two changes of clothing per day under “Dressing.” The agency noted that the PCST Instructions indicate that the bathing task includes a change of clothing. The PCST for the Petitioner indicates that she requires assistance with dressing in the morning and in the evening. Because one change of clothing is included in the bathing task, only one change of clothing is to be included in the dressing task. The agency’s approval of only one dressing change in the dressing task resulted in a reduction in the minutes allocated for dressing by 10 minutes/day.

At the hearing, the Petitioner agreed that she requires assistance with two dressing changes per day. The remainder of the Petitioner’s testimony was consistent with the PCST. The agency allocated the maximum time generally allowed for bathing (including one change of clothing), dressing, grooming, mobility and transferring. The Petitioner requires assistance with toileting 2x/day so 20 minutes/day is allocated for the task. Petitioner requires meal prep and set up but is otherwise able to eat independently. The Petitioner requires assistance with setting up the pillbox for her medications but is otherwise able to take the required medications independently.

Based on the evidence presented, I conclude that the agency properly modified the Petitioner’s PCW hours to include one dressing change in the Dressing task and one dressing change as part of the bathing task. This resulted in a reduction in PCW services of approximately 10 minutes/day.

CONCLUSIONS OF LAW

The agency properly modified the Petitioner’s PA request for PCW hours to 22 hours/week (3.14 hours/day).

THEREFORE, it is

ORDERED

That the Petitioner’s appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

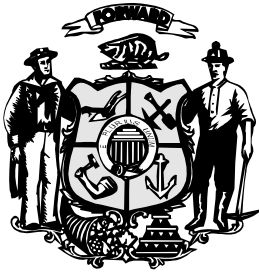
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 9th day of February, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 9, 2016.

Division of Health Care Access and Accountability